



THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

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MITT ROMNEY
GOVERNOR

KERRY HEALEY
LIEUTENANT GOVERNOR

March 3, 2005

To the Honorable Senate and House of Representatives:

I am filing today for your consideration the attached bill entitled "An Act Further Creating and Protecting Jobs, Easing the Unemployment Insurance Burden on Employers, and Preserving the Solvency of the Trust Fund." Massachusetts has the highest unemployment insurance costs in the nation, costing employers an average of \$688 per employee in 2005, a 103% increase since 2003. This bill would save employers \$246 million in 2006, approximately \$101 per employee, with additional savings through 2009. The rate relief package would:

- Set the rate schedule at "C" through 2009; and
- Reduce the wage base from \$14,000 to \$12,800 beginning in 2006

This bill also provides modest benefit reforms to bring Massachusetts in line with most other states by:

- Setting the length of time unemployment insurance benefits may be collected to match all other 49 states in the country, to a maximum of 26 weeks;
- Requiring 20 weeks of work to be eligible to collect benefits, as opposed to the current 15-week requirement; and
- Setting the average weekly wage using the three highest quarters as opposed to the current method, which uses the two highest quarters.

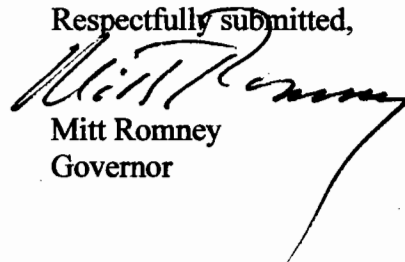
Finally, this bill will prevent the fraudulent payment of unemployment insurance benefits by clarifying ambiguous language in Chapter 142 of the Acts of 2003 and providing the Division of Unemployment Assistance with greater ability to recoup payments that were fraudulently collected.

These reforms will provide employers with much needed rate relief while ensuring the solvency of the Unemployment Insurance Trust Fund.

Today, I am also filing two other bills that collectively will distinguish Massachusetts as a leader in bringing businesses to our state and creating new job opportunities for our citizens.

I urge your prompt and favorable consideration of this legislation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mitt Romney", with a long, sweeping flourish extending from the bottom right.

Mitt Romney
Governor



The Commonwealth of Massachusetts

HD 4312

IN THE YEAR TWO THOUSAND FIVE

AN ACT

FURTHER CREATING AND PROTECTING JOBS, EASING THE UNEMPLOYMENT INSURANCE BURDEN ON EMPLOYERS, AND PRESERVING THE SOLVENCY OF THE TRUST FUND.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 1 of chapter 151A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out subsection (w) and inserting in place thereof the following subsection: -

(w) "Average weekly wage", an amount equal to one thirty-ninth of the total wages reported for an individual in the 3 highest quarters of the individual's base period. If such average weekly wage includes a fractional part of a dollar, it shall be rounded to the next lower full dollar amount.

SECTION 2. Subsection (a) of section 14 of said chapter 151A, as so appearing, is hereby amended by striking out paragraph (4) and inserting in place thereof the following paragraph: -

(4) “Unemployment insurance taxable wage base”, with respect to the calendar years beginning on or after January 1, 2006, the term “unemployment insurance taxable wage base” shall mean \$12,800.

SECTION 3. Subsection (a) of section 15 of said chapter 151A, as most recently amended by section 7 of chapter 142 of the acts of 2003, is hereby further amended by striking out the last paragraph and inserting in place thereof the following new paragraph: -

Notwithstanding section 47, if an employer or an officer or agent of an employer attempts in any manner to evade or defeat any contribution or payment in lieu of contribution or who knowingly makes a false statement or misrepresent the employment status of an individual under his employ to avoid or reduce any contribution, he shall be punished by a fine equal to the total amount of contributions owed, including any interest. If as a result of such actions an individual fraudulently collects benefits, such employer shall be assessed a penalty, in addition to the fine specified above, equal to the total amount that the individual fraudulently collected benefits during the period in which such individual was under its employ.

SECTION 4. Section 24 of said chapter 151A, as appearing in the 2002 official edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection :-

(a) Have been paid wages in the base period amounting to at least forty times the weekly benefit rate and have been paid wages in at least two calendar quarters in said base period; provided, further, that for the period beginning on January 1, 1995 the individual has been paid wages of at least \$2,000 during said base period; provided, further, that said amount shall be increased annually proportionately, rounding to the nearest \$100, to any increases which

have occurred during the prior calendar year in the minimum wage as set forth in section one of chapter 151. Any such increase shall be effective beginning on the first Sunday in January.

SECTION 5. Section 25 of said chapter 151A, as most recently amended by section 9 of chapter 142 of the acts of 2003, is hereby further amended by striking out subsection (j) and inserting in place thereof the following new subsection:-

(j) Any week in which the individual fraudulently collects benefits. In addition, whoever fraudulently collects benefits may be disqualified for each otherwise compensable week for each such total or partial week of erroneous payment; provided, however, that in the discretion of the commissioner, the amount erroneously paid may be deducted first from any future payments of benefits accruing to the individual under this chapter; provided further, the total benefits to which the individual may be entitled under this chapter shall be reduced by the weekly benefit amount which, but for the operation of this subsection, would be payable under this chapter.

SECTION 6. Section 30 of said chapter 151A, as most recently amended by chapter 142 of the acts of 2003, is hereby further amended by striking out subsection (a) and inserting in place thereof the following:-

(a) The total benefits which an unemployed individual may receive during the individual's benefit year shall be an amount equal to 36 percent of the individual's wages in the base period, or an amount equal to 26 times the individual's benefit rate, whichever is less, plus dependency benefits payable under section 29. If such amount includes a fractional part of a dollar, it shall be rounded to the next lower full dollar amount.

SECTION 7. Said section 30 of said chapter 151A, as most recently amended by chapter 142 of the acts of 2003, is hereby further amended by striking out subsection (b).

SECTION 8. Said chapter 151A is hereby further amended by adding after section 69D the following new section:-

Section 69E. In addition to any other remedy provided by this chapter, the commissioner may utilize the procedures specified below for the collection of any outstanding obligation where: (1) the obligation has become final as determined under section 69D; (2) the obligation arose as a result of the obligor's failure to knowingly and willfully furnish accurate information concerning any material fact, including amounts of remuneration received; and (3) the obligor has failed to satisfy the obligation or make payment arrangements acceptable to the commissioner within thirty days after notice that such obligation has become final and is due.

(a) The commissioner may file with the clerk of the municipal court department of the city of Boston or in the district court department in the judicial district court where the obligor lives or is employed a certificate or a copy thereof under the commissioner's official seal stating: the name and address of the obligor, the amount owed, including interest assessed pursuant to subsection (a) of section 69, and in default, and that the obligation has become final. The commissioner also shall provide information concerning the obligor's weekly benefit amount as referenced in subsection (c).

(b) Upon receipt of the certificate specified in subsection (a), the clerk shall send written notice, first class mail, to the obligor at his address listed in the certificate that the certificate has been filed and the clerk shall enter into the judgment records of the court the name of the obligor mentioned in the certificate, the amount owed and in default and the date such certificate is filed. The clerk shall issue an execution at the request of the commissioner or the commissioner's

agent or attorney, in the same manner as a duly entered judgment of the court. No filing fee shall be paid by the commissioner for the filing of a certificate.

(c) Every judgment issued pursuant to subsection (b) shall include an assignment to the department of a portion of the obligor's salaries, wages, earnings, or other periodic income, in an aggregate amount sufficient to comply with the judgment as limited by section 34 of chapter 235. The periodic amount of the assignment shall be the lesser of the obligor's weekly unemployment insurance benefit amount in effect at the time of the obligation arose or the maximum amount permitted by 15 U.S.C. §1673(a); provided, however, that where more than one weekly benefit amount was in effect, the periodic amount shall be the lesser of the average of all such weekly benefit amounts or such maximum amount; provided further, that the obligor may within ten days following the date of the mailing of a notice of assignment petition the court for a modification, where such petition is filed, the court shall consider the amount owed, the income and reasonable expenses of the obligor and other factors found by the court to be relevant to the ability to repay the amount owed and, in its discretion, may allow such modification.

(d) If an assignment is in effect under subsection (c) but cannot be implemented because obligor has no employer, the obligor shall notify the commissioner as soon as employment is obtained and the commissioner shall transfer the assignment to such employer.

(e) An employer shall send the amount required by the assignment to the commissioner within three days after the day the obligor is paid. The employer may deduct from the obligor's earnings a sum not exceeding one dollar per pay period as reimbursement for costs incurred and may submit to the commissioner one check covering all its employees whose earnings are assigned along with a statement enumerating each employee's obligation and amount paid.

(f) The assignment shall begin on the first payment of income that occurs more than three days after the employer receives notice of the assignment and shall continue until the

obligor leaves that employment or the employer is notified by the commissioner that the assignment should be terminated.

(g) When the obligor changes employers, the obligor shall notify the commissioner within three days after beginning the new employment, and shall notify the new employer of the assignment. The commissioner shall then transfer the assignment to the new employer.

(h) Assignments pursuant to this section shall terminate when the underlying obligation terminates and all arrears are paid.

(i) If an employer fails to comply with an order of assignment executed pursuant to this section, the court may upon report of the commissioner summon the employer to appear in court and show cause why he should not be held in civil contempt for failure to obey said order.

(j) An employer shall not discipline, discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against an employee because of an assignment executed or threatened pursuant to this section. Any employer who violates this section shall be liable in a civil action, action for contempt or other appropriate proceeding to such employee for all wages and employment benefits lost by the employee from the time of the unlawful discipline, suspension or discharge to the period of reinstatement.

(k) An employer who violates subsection (j) shall be liable for such damages or equitable relief as a court shall deem appropriate, including reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination. In addition, the employer shall be required to pay litigation costs and reasonable attorney's fees. An employee may bring an action in the appropriated superior court department or the superior court department of Suffolk county for the relief provided in this subsection.

SECTION 9. Notwithstanding section 14 of said chapter 151A and any special or general laws to the contrary, the experience rate of an employer qualifying for it under subsection (b) of said section 14 shall be the rate which appears in the column designated "C" for calendar years 2006 , 2007, 2008 and 2009.

SECTION 10. Sections 1, 4, 6 and 7 of the act shall take effect with respect to new initial claims for unemployment filed on or after July 3, 2005. Section 3 of this act shall take effect with respect to violations discovered on or after the effective date of this act. Section 5 of this act shall take effect with respect to weeks of unemployment occurring on or after the effective date or this act.